

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to motorized bicycle education
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 602, “Classes of Driver’s Licenses,” and Chapter 636, “Motorized Bicycle Rider Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.189.

Purpose and Summary

This proposed rule making relates to motorized bicycle (moped) rider education and aligns with existing legal authority and Department practice, eliminates outdated or irrelevant requirements or options, and accommodates modern electronic procedures and terminology.

Rule 761—636.4(321) is amended to consolidate instructor and course approval requirements into a single rule because those requirements are the same for all programs seeking to provide a motorized bicycle rider education course, regardless of whether the provider is a school district or a private/commercial sponsor. However, an application fee only pertains to private/commercial sponsors. The proposed amendments to this rule also specify the length of validity of the course approval and renewal procedures.

This proposed rule making includes a conforming change to subrule 602.2(1) to provide that a certificate of completion of an approved course may be submitted electronically through the Department’s online reporting system by a participating Iowa-approved motorized bicycle rider education provider. **ARC 5102C**, which was published in the Iowa Administrative Bulletin as a Notice of Intended Action on July 29, 2020, also proposed an amendment to subrule 602.2(1). The proposed amendment included in this rule making will supersede the proposed amendment within **ARC 5102C**. This proposed rule making also includes an amendment to update the implementation sentence for rule 761—602.26(321).

Current terminology within Chapter 636 is amended to refer to program approval rather than a license, and an instructor rather than a teacher, and further specifies that the instructor must be listed on the program application to be approved.

Finally, the proposed amendments incorporate the clear driving record standards used by the Department for behind-the-wheel driver education instructors and motorcycle rider instructors and clarify the Department’s current practice of either canceling or denying the instructor’s approval if the instructor does not meet the instructor qualifications under the chapter.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 15, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on September 15, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

September 17, 2020
10 to 11 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 602.2(1), introductory paragraph, as follows:

602.2(1) *Certificate of completion.* Proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education, or motorized bicycle education shall be submitted to the department on Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education may instead be submitted or through an online reporting system used by participating Iowa-approved driver education schools, motorcycle rider education, or motorized bicycle rider education providers.

ITEM 2. Amend rule **761—602.26(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.177₂, 321.180B₂, 321.189₂, 321.194 as amended by 2019 Iowa Acts, Senate File 140, sections 1 and 2; and 321.196.

ITEM 3. Amend rule 761—636.1(321) as follows:

761—636.1(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the ~~Office of Driver and Identification Services Bureau~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3153~~ (515)244-8725; or by facsimile at ~~(515)237-3071~~ (515)239-1837.

ITEM 4. Adopt the following new definitions of “Instructor” and “Program approval” in rule **761—636.2(321)**:

“*Instructor*” means a person approved by the department to instruct a motorized bicycle rider education course.

“*Program approval*” means department approval of an entity’s motorized bicycle rider education course and instructors.

ITEM 5. Amend rule 761—636.4(321) as follows:

761—636.4(321) Agencies or institutions Approved program in motorized bicycle rider education.

636.4(1) Program approval. ~~Any school district, area education agency, merged area school, other agency or individual entity planning to offer a motorized bicycle rider education course must receive course program approval from the department prior to the beginning of the first class that is offered and annually thereafter. The agency or institution or individual shall complete a form provided by the department to apply for course approval. Course approval will be issued for a calendar year or remainder of a calendar year. The approval expires on December 31 and must be renewed annually.~~

636.4(2) Application and fees. Application for initial program approval or annual program approval renewal shall be made to the department in a manner determined by the department. The application fee is \$25 for a private or commercial sponsor. The fee must be paid by cash, money order or check unless the department approves payment of the fee by electronic means. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

636.4(3) Initial program approval and annual renewal. Program approval to provide motorized bicycle rider education shall be issued for a calendar year or remainder of a calendar year. The program approval expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department.

636.4(4) Cancellation and denial. The department shall cancel or deny program approval if the course or instructors are no longer approved.

ITEM 6. Rescind rule **761—636.5(321)**.

ITEM 7. Renumber rules **761—636.7(321)** to **761—636.9(321)** as **761—636.5(321)** to **761—636.7(321)**.

ITEM 8. Amend renumbered subrule 636.5(1) as follows:

636.5(1) Classroom instruction. An approved course shall consist of a minimum of six clock hours of classroom instruction which includes the instructional components contained in subrule ~~636.7(3)~~ 636.5(3).

ITEM 9. Amend renumbered rule 761—636.6(321) as follows:

761—636.6(321) Teacher qualifications Instructor approval. ~~A teacher~~ An instructor of an approved motorized bicycle rider education course must be listed on the application for program approval as provided in subrules 636.4(1) and 636.4(2) and approved by the department.

636.6(1) *Instructor qualifications.* An instructor of an approved course shall possess a valid driver's license allowing unaccompanied driving other than a temporary restricted license and shall be able to operate a motorized bicycle. A teacher An instructor must also have a clear driving record for the previous two years. A clear driving record means the teacher instructor has:

636.6(1) a. Not been identified as a candidate for driver's license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

636.6(2) b. No driver's license suspensions, revocations, denials, cancellations, disqualifications or bars.

636.6(3) c. Not committed an offense that would result in driver's license suspension, revocation, denial, cancellation, disqualification or bar.

636.6(4) d. No record of an accident for which the individual was convicted of a moving traffic violation a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

e. No record of a law enforcement investigative report indicating two or more contributive motor vehicle accidents in a two-year period.

636.6(2) *Cancellation and denial.* When an instructor of an approved program does not meet the qualifications under this chapter, the department shall remove the instructor from the approved program and cancel or deny the approval of the program unless the entity has submitted an application for or secured approval of an alternate instructor from the department.

ITEM 10. Amend renumbered rule 761—636.7(321) as follows:

761—636.7(321) *Evaluation.* Each student shall be evaluated by the instructor to determine successful completion of the course.